

REMARKS/ARGUMENTS

Applicant acknowledges receipt of the Office Action dated June 3, 2003.

Claim Rejection- 35 U.S.C. § 103

Claims 36-40, 44 and 47-64 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Number 6,404,884 ("Marwell") in view of U.S. Patent Number 6,311,210 ("Foladare"). Claims 36, 47, 56 and 57 have been amended. The applicant asserts that amended claims 36, 47, 56, 57 and their dependents are not obvious over Marwell in view of Foladare.

The present invention is a system for using a telephone and a code to either obtain information from a merchant or advertiser as in claims 36 and its dependents, or to order information directly from a merchant or advertiser as in claims 47-64. The system provides two sets of databases. One database is maintained by an entity and includes user information such as address information and delivery preferences. This database can also include payment information and shipping addresses. The second database is maintained by an entity and contains advertising or product information and the related code used by the user to retrieve that information from the database.

The Marwell patent discloses a personal assistance system and method. Marwell relies on a human customer service representative as an integral part of their system (human). They reject speech recognition as "cumbersome," and "difficult to use." (see col. 2, lines 1-20). Marwell does not disclose the step of sending information back to the user in an electronic format using an address that is in the first database. Nor does Marwell teach using both databases to create an electronic message to send to a merchant for purchasing goods and services. Furthermore, Foladare does not teach the steps missing from the Marwell patent. Specifically, in Foladare, the recipient's address is already known and entered in by the user. The centralized electronic mail apparatus just adds an attachment or further information to the already existing e-mail message. See Abstract. In the instant invention, the user enters a code and an electronic message is created using addressing information stored in a database. Furthermore, there is no motivation to combine the two references for the following reasons. Foladare deals exclusively with an e-mail system and is completely


unrelated to a telephone system. It is classified exclusively in class 709, which is multi-computer data transferring. Whereas Marwell is classified exclusively in class 379, which is the telephone art. There is nothing in either patent to suggest or teach combining the two diverse arts to come up with the instant invention. In addition, Marwell teaches away from the combination because it relies exclusively on a human operator and rejects the idea of using an integrated computer system. Therefore, the applicant believes that the present claims 36-40, 44 and 47-64 are not obvious over Marwell in view of Foladare.

Should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the undersigned attorney in order to expeditiously resolve any outstanding issues.

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,

KRAMER & AMADO, P.C.


D. Scott Juneau
Registration Number 39,243

9/3/03

KRAMER & AMADO, P.C.
2001 Jefferson Davis Highway
Suite 1101
Arlington, VA 22202
(703) 413-5000
Date: August 29, 2003
DSJ/nsa